



ORDINANCE NO. 2022 - 15

**AN ORDINANCE AMENDING THE PARKING ORDINANCE IN TITLE 5,
CHAPTER 4 OF THE BELGRADE CITY CODE**

WHEREAS, the City of Belgrade has adopted a charter form of government and pursuant to its Charter, the Montana Constitution, and state law, may exercise any power not prohibited by the constitution, law, or charter, and neither the Montana Constitution, state law, or the City Charter prohibits the City Council from adopting this Ordinance;

WHEREAS, The Belgrade City Council has determined that the regulation of parking in the City of Belgrade is a matter concerning the general health, safety, and welfare of the public and the citizens of Belgrade.

WHEREAS, the Belgrade City Council has determined that it is in the best interests of the citizens of Belgrade to adopt the following amendments to the parking ordinance;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELGRADE THAT TITLE 5, CHAPTER 4 OF THE BELGRADE CITY CODE BE AMENDED BY DELETING THE LANGUAGE WHICH IS STRIKED OUT AND ADDING THE LANGUAGE THAT IS UNDERLINED AS FOLLOWING:

CHAPTER 4

**~~PARKING, U-TURNS, TURNING AND~~
~~PASSING RESTRICTIONS~~**

SECTION:

- 5-4- 1: Definition
- 5-4- 2: Parking Restricted
- 5-4- 3: Parking Prohibited ~~in~~ in Specific Places

- 5-4- 4.: Stopping, Standing, ~~Or~~ or Parking Prohibited ~~On~~ on Certain Streets
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- 5-4- 7: Parking ~~At~~ at Schools
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- 5-4-14: Vehicle Owner Responsibility
- 5-4-15: Legislative Intent
- 5-4-16: Enforcement; Penalty for Violation
- 5-4-17: Tampering with or Removal of Immobilization Device Prohibited; Penalty
- 5-4-18: Exclusive Authority to Regulate Parking

5-4-1: DEFINITION: For purposes of this chapter the following definitions apply:

- A. “Vehicle” means every device in, upon, or by which any person or property may be transported or drawn upon the public highways. The term includes motor vehicles, recreational vehicles, boats, watercraft, campers, trailers, semitrailers, house trailers and motorcycles. The term does not include bicycles.

5-4-2 PARKING RESTRICTED:

- A. Prohibited Purposes ~~For~~ for Parking ~~On~~ on Street: No person shall park any vehicle, ~~motor vehicle, or trailer~~ upon any public street, roadway, thoroughfare or alley, or on ~~and~~ or in any other public place for the principle purpose of:
 - 1. Displaying such vehicle or motor vehicle for sale;
 - 2. Greasing, maintaining or repairing such vehicle, except repairs that are necessitated by an emergency rendering the vehicle inoperable.
- B. Alleys: No person shall stop, stand, or park a vehicle within an alley for a period of time longer than is necessary for the reasonably expeditious loading or unloading of such vehicle. When such vehicles are loading or unloading within a public alley, ten feet (10')

of the width of the alleyway shall be available at all times for the free movement of vehicular traffic. When such a vehicle is loading or unloading in an alley, the same shall not be parked in such a position as to block the driveway or entrance to any abutting property.

~~C. Time Limitation; Declared Abandoned: A vehicle, motor vehicle, or trailer other than those belonging to the city, left on a city street, alley, roadway or public property over five (5) days without being moved may be declared abandoned. After the vehicle has been declared abandoned, the city police shall place a five (5) day notice of intent to remove and impound the vehicle. The owner of a vehicle which has been removed and impounded will be responsible for moving and storage expenses arising from the transportation of said abandoned vehicle.~~

5-4-3: PARKING PROHIBITED IN SPECIFIC PLACES: No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police or traffic control officer, or highway patrolman in any of the following places:

- A. On a sidewalk.
- B. In front of a public or private driveway.
- C. Within an intersection or within fifteen feet (15') of an intersection.
- D. Within fifteen feet (15') of a fire hydrant.
- E. Within twenty feet (20') of a crosswalk at an intersection. (~~Ord. 82-1, 8-18-1986~~)
- ~~F. Within twenty feet (20') of a crosswalk at an intersection.~~
- ~~G.F.~~ Within thirty feet (30') of the approach to any traffic signal, stop sign, or other traffic control device location at the side of a roadway.
- ~~H.G.~~ Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless the local authorities indicate a different length by signs or markings.
- ~~I.H.~~ Within fifty feet (50') of the nearest rail of a railroad crossing.
- ~~J.I.~~ Within twenty feet (20') of the driveway entrance to any fire station, and on the side of a street opposite the entrance to any fire station, within seventy five feet (75') of said entrance when properly signposted.

- K.J. Alongside or opposite any street excavation or construction when stopping or parking would obstruct the flow of traffic, or leave less than twenty feet (20') of available roadway for the free movement of traffic.
- L.K. On the roadway side of any vehicle stopped or parked at the edge of a curb, roadway or street.
- M.L. Upon any bridge or elevated structure within the city.
- N.M. At any place where official signs prohibit stopping.
- ~~O. From the northwest corner of the intersection of Main Street and Kennedy Avenue west for a distance of fifty seven feet (57') along the north side of main street.~~
- ~~P. From Thunder Road to Missoula Avenue on either side of Jackrabbit Lane.~~
- ~~Q. From Dakota Street to Boundary Street on either side of Madison Avenue.~~
- ~~R. From the west boundary of the intersection of Jackrabbit Lane and Amsterdam Road a distance of seven hundred feet (700') along Amsterdam Road.~~
- ~~S. From the east boundary of the intersection of Jackrabbit Lane and Alaska Frontage Road a distance of seven hundred feet (700') east along Alaska Frontage Road.~~
- ~~T. From the west boundary of the intersection of Broadway and Missoula west along both sides of Missoula to the alley between Broadway and Weaver.~~

5-4-4: STOPPING, STANDING, OR PARKING PROHIBITED ON CERTAIN STREETS:

- A. Application of Section: The provisions of this section prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.
- B. Regulations Not Exclusive: The provisions of this section imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times by municipal, county or state law.
- C. Parking Time Limited ~~On~~ on Certain Streets: When signs are erected in each block to give notice thereof, no person shall park a vehicle for more than the posted time limit. ~~ten~~

~~(10) minutes, at any time within the district on upon any of the streets described and on file in the office of the director of finance.~~

- D. City Manager and Chief of Police ~~May may~~ Make Additional Parking Regulations: The city manager and chief of police ~~are~~ is authorized to make and enforce such regulations
- E. Parking Signs Required: Whenever, by this title or any other city ordinance, any parking time is imposed or parking is prohibited on designated streets or public parking lots, it shall be the duty of the city manager to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.
- F. Owner Responsible ~~For~~ for Illegal Parking: If any vehicle is found upon a street or highway in violation of any ordinances, rules or regulations controlling stopping, standing, or parking of vehicles and the identity of the operator cannot be determined, the owner or person in whose name such vehicle is registered, shall be prima facie responsible for such violation.
- G. Parking ~~In in~~ City Parking Lot: Parking in city parking lot shall be limited to seventy two (72) consecutive hours. The owner of any vehicle violating this provision is in violation of this section. ~~Vehicles remaining in city parking lot in excess of seventy two (72) hours are subject to the provisions of chapter 5 of this title.~~
- H. Handicapped Parking: Parking spaces designated by the city manager shall be designated as handicapped parking spaces, subject to provisions of Montana Code Annotated sections 49-4-301 through 49-4-307. Spaces must be properly signed to be a legal handicapped zone.

5-4-5: METHOD OF CURBSIDE PARKING:

- A. Parallel Parking: Except as otherwise provided in this section, a vehicle parked upon any public street or thoroughfare shall be parked or stopped with the right hand wheels of the vehicle parallel to and within eighteen inches (18') of right hand curb, or right hand pavement edge or street boundary, as long as such vehicle is facing the same direction as the traffic flow upon such street.
- B. Angle Parking: Angle parking is permitted only where appropriate signs or markers are placed showing the propriety of angle parking.

5-4-6: PARKING TRUCKS IN OFFICALLY ZONED RESIDENTIAL DISTRICT:

- A. Parking Prohibited: No person shall stand or park any truck, truck tractor, trailer, semitrailer, bus, or any vehicle exceeding the GVM limit of eighteen thousand (18,000)

pounds on the side any street which is adjacent to an officially zoned residential district for any purpose or period of time other than for the expeditious loading or unloading of such vehicles. An "officially zoned residential district" is defined as any land area within the city which has been zoned R-1, R-2, R-3, R-4, R-2-D or R-2-M.

- B. Exception: The provisions of this section shall not apply to the operator of a truck, truck tractor, trailer, semitrailer, bus, or any other vehicle exceeding the GVW limit of eighteen thousand (18,000) pounds, while such vehicle is actively being used in connection with the construction or repair of buildings, service calls, or the moving of household goods, and shall not be applicable to the operator of a bus while such vehicle is parked in a designated bus stop.

5-4-7 PARKING AT SCHOOLS:

- A. Authority ~~To~~ to Erect Signs: The chief of police ~~is and~~ city manager are hereby authorized to erect or direct the erection of signs indicating no parking upon that side of any street adjacent to any school, when such parking would, in ~~his~~ their opinion, interfere with traffic or create a hazardous pedestrian safety situation.
- B. Parking Prohibited: When official signs are erected indicating no parking upon that side of a street adjacent to school property, no person shall park a vehicle in any such designated place.

5-4-8 NO PARKING AREAS:

- A. Authority ~~To~~ to Designate: The chief of police and the city manager are hereby authorized to determine and designate ~~places~~ portions of public streets, alleys and roadways where in which the stopping, standing, or parking of vehicles would create a hazardous condition, ~~or could cause unusual delay to traffic, or as deemed appropriate by the chief of police and city manager.~~
- B. Erection ~~Of~~ of Signs: Such places shall be indicated by the erection of ~~no parking~~ signs indicating no parking, and/or by causing the adjacent curb to be painted red.
- C. Prohibited: When official signs are erected and/or red curbs are painted at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.

5-4-9: PARKING TIME LIMITS:

- A. Whenever signs are erected at the direction of the chief of police and city manager pursuant to a resolution of the city council which prohibits parking of vehicles,

~~establishes~~ establishing time limits in certain parking zones, or in any way ~~limits~~ limiting or ~~restricts~~ restricting parking of vehicles, no person shall stop, stand, or park a vehicle in violation of the provisions indicated by such signs.

- B. Vehicles. No vehicle, other than a vehicle belonging to the city, shall be parked on a public street, alley, roadway or other way open to the public for more than three (3) days without being moved more than the length of the vehicle.
- C. Abandoned Vehicles. Any vehicle, other than a vehicle belonging to the city, which has been parked on a public street, alley, or other way open to the public for more than three (3) days without being moved more than the length of the vehicle may be deemed abandoned. A written two (2) day notice of intent to remove and impound the vehicle shall be placed on a vehicle that has been deemed abandoned. The city, or authorized agent of the city, is authorized to remove or tow a vehicle to the city impound lot or to a location associated with the tow company any vehicle that has been deemed abandoned and not moved more than the length of the vehicle within the two (2) day notice of intent to remove and impound the vehicle pursuant to the provisions of section 5-4-16 (I.2), (J), (K), (L), and (M).

5-4-10 PARKING FOR CAMPING PURPOSES:

- A. It shall be unlawful for any person to camp or sleep in a vehicle, motor home, camper trailer, camper or recreational vehicle, whether self-propelled, towed, or hauled, parked on any public or private parking lot, street or alley way, within the city except in a recreational vehicle and travel trailer park or truck stop, unless specifically authorized by the chief of police, city manager, or by resolution of the city council, to accommodate a special event.
- B. It shall be unlawful for any person to camp or sleep in a vehicle, motor home, camper trailer, camper or recreational vehicle, whether self-propelled, towed, or hauled, parked on any private lot within the city, except that the owner or occupant of a single family residential lot may allow one or more persons to camp or sleep in a parked motor home, camper trailer, camper or recreational vehicle located on the single family residential lot for a period not to exceed one (1) year, provided that the use of the motor home, camper trailer, camper or recreational vehicle is without compensation to the owner or occupant of such single family residential lot, and provided that the owner or occupant of such single family residential obtain a permit from the city. No more than one (1) motor home, camper trailer, camper or recreational vehicle shall be allowed on a single family residential lot at one (1) time. No part of the motor home, camper trailer, camper or recreational vehicle shall be parked on or extend over any public property or right of way, including any street, alley, boulevard, sidewalk or park, or on an adjoining private lot. The motor home, camper trailer, camper or recreational vehicle shall not be connected to the Belgrade City sewer system, and shall not be allowed to release sewer or gray water

upon the ground. The camping permit holder shall provide the city with proof of proper disposal of sewer and gray water at least once every three (3) months during the permit period. A camping permit may be denied or revoked at any time for good cause and determined by the city council following notice and public hearing.

- C. The initial fee for the camping permit shall be \$50.00. The camping permit fee may be amended from time to time by resolution of the city council.
- D. It is not the intent of this section to prevent property owners from parking camper units upon their property for the purpose of storage of the unit.

5-4-12: RESERVED HANDICAPPED PARKING: Whenever a particular parking space has been designated and reserved for the handicapped, no person shall park in said space unless ~~he has, visibly displayed on his vehicle,~~ a valid handicapped parking permit or license plate, issued by a municipality, the State of Montana of any other state, or the veteran's administration, is visibly displayed on the vehicle.

5-4-13: EMERGENCY DECLARED:

- A. Power To Declare Parking Prohibition: Whenever the city manager or chief of police determines that parking motor vehicles on city streets should be prohibited or restricted for street cleaning, snow removal or other emergency purposes, the ~~mayer,~~ chief of police or city manager shall put into effect a parking prohibition on designated streets, as necessary, by declaring it in a manner prescribed hereunder. The prohibition or restriction shall remain in effect until terminated by announcement by the ~~mayer,~~ chief of police or city manager as may be set forth in any notice given hereunder, except that any street area which has been cleared of snow, ice or other debris for the length of an entire block shall be automatically excluded therefrom.
- B. Parking Prohibited: While the prohibition or restriction is in effect, no person shall park any motor vehicle or allow any motor vehicle to remain parked on any street to which the prohibition applies.
- C. Notice: The city manager or chief of police shall cause each declaration made by him/her pursuant to this chapter to be publicly announced by means of radio broadcasts from stations with a normal operating range covering the city, and as he/she may cause such declaration to be further announced in newspapers of general circulation in the city when feasible. Each announcement shall describe the action taken by the city manager or chief of police, including the time it became or will become effective, and shall specify the streets or areas affected. A parking prohibition shall not go into effect until at least eight (8) hours after notice thereof has been first announced or the first publication thereof has been made in a newspaper of general circulation in the city.

~~5-4-14: REMOVAL; IMPOUNDING; RETURN OF MOTOR VEHICLE:~~

~~Motor vehicles parked in violation of any section of this chapter may be removed and impounded by any police officer or highway patrolman in accordance with chapter 5 of this title.~~

~~5-4-15: U-TURNS:~~

~~The operator of any motor vehicle shall be prohibited from making a U-turn in the right of way of any of the following areas:~~

- ~~A. From Thunder Road to Missoula Avenue on either side of Jackrabbit Lane.~~
- ~~B. From Dakota Street to Boundary Street on either side of Madison Avenue.~~
- ~~C. From the west boundary of the intersection of Jackrabbit Lane and Amsterdam Road a distance of seven hundred feet (700') west along Amsterdam Road.~~
- ~~D. From the east boundary of the intersection of Jackrabbit Lane and Alaska Frontage Road a distance of seven hundred feet (700') east along Alaska Frontage Road.~~

~~5-4-16: LEFT TURN PROHIBITED: The operator of any motor vehicle shall be prohibited from turning left from the westbound lane of traffic on Amsterdam Road from the west boundary of the intersection of Jackrabbit Lane and Amsterdam Road west for a distance of seven hundred feet (700').~~

~~5-4-17: PASSING ON RIGHT PROHIBITED: The operator of any motor vehicle shall be prohibited from passing any other motor vehicle on the right in the eastbound lane of Amsterdam Road from the west boundary of the intersection of Jackrabbit Lane and Amsterdam Road west for a distance of seven hundred feet (700').~~

~~5-4-18: VIOLATION: Any person violating any preceding sections of this chapter, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code.~~

~~5-4-19: RESPONSIBILITY FOR VIOLATION: For any violation of this chapter, the registered owner of the vehicle at the time of the violation shall be personally responsible. It shall be no defense to such charge that the vehicle was illegally parked by another unless it is shown that at such time the vehicle was being used without the consent of the owner.~~

5-4-14: VEHICLE OWNER RESPONSIBILITY: If any vehicle is found in violation of this chapter or any rule, regulation, sign or marking in force pursuant thereto, controlling stopping, standing or parking of vehicles, any person in whose name such vehicle is registered shall be responsible for such violation.

5-4-15: LEGISLATIVE INTENT: It is the intent of the city council that the violations listed in this Chapter, except for a violation of section 5-4-17, are offenses involving absolute liability. It is also the intent of the city council that a violation of section 5-4-17 is a misdemeanor criminal offense of absolute liability and shall not require proof of any of the mental states described in MCA 45-2-101(33), (37) and (58).

5-4-16 ENFORCEMENT, PENALTY FOR VIOLATION:

A. Fines. A violation of this Chapter, except for a violation of section 5-4-17, shall be punishable by a penalty and the penalties shall be imposed as follows:

1. The penalty for a violation of this Chapter, except for a violation of section 5-4-17, shall be a fine of \$20.00. The penalty may be amended by resolution of the city council. The penalty is in addition to any other action or remedy authorized by this Chapter.

B. Failure to pay. The determining factor with respect to the penalty is the issuance of the citation and not the judgment. Failure to pay a citation for violation of this Chapter within ten (10) business days of issuance of the citation results in an administrative charge of \$30.00, in addition to the penalty. The administrative charge may be amended by resolution of the city council

C. Violation for improperly parked vehicle.

1. If any motor vehicle is found to be in violation of any provision of this Title 5, Chapter 4 of the Belgrade City Code, the vehicle may be cited for the appropriate parking violation. The notice of violation shall be in the form of a citation authorized by the city. The city employee issuing the notice of violation shall note the vehicle's license plate or vehicle identification number and any other information concerning the vehicle that will identify it and, if the driver is not present, shall serve the citation by placing on the vehicle a notice of the parking violation, or alternatively serve directly on the owner/operator of the vehicle in person or serve the citation by regular mail.

2. The registered owner of a vehicle at the time the violation occurred shall be liable for all fines, fees and penalties related to the specific violation.

3. The registered owner at the time a vehicle is found to be in violation of any provisions of this article shall remain liable for all violations despite having subsequently sold, transferred, or otherwise conveyed the vehicle.

D. Notice of Violation. Employees under the supervision of the chief of police are authorized to provide enforcement of parking regulations and issue related notices of violation for parking violations as set forth in this article or violations of MCA Title 61 and MCA 49-4-302. Employees under the supervision of the chief of police are authorized to immobilize and/or impound a vehicle in accordance with this section.

1. The form of the notice of the violation shall be designated by the city, but shall contain in substance the following information:

a. A statement that the notice of the violation represents a determination that a violation of this article or other parking prohibition has been committed by the owner or user of the vehicle and that the determination shall be final unless contested as provided by this Chapter;

b. A statement that failure to pay a violation may result in immobilization and/or impoundment of the vehicle for which the owner may be liable for a penalty, administrative fees, including towing, handling and storage costs;

c. A statement of the specific provision of this Chapter or MCA section violated and for which the citation was issued;

d. A statement of the monetary penalty established for the parking violation, including that the violation may subject the owner to additional administrative fees if not paid within ten (10) business days of the date of issuance of the notice of violation; and

e. Information advising the owner of the vehicle that he or she must admit the violation and pay the penalty set forth in section 5-4-16(A), or deny the violation and request an appeal pursuant to section 5-4-16(F), within ten (10) business days of the issuance of the notice of violation.

2. The notice of violation represents a determination that a violation has been committed, and such determination shall be final unless contested as provided herein.

3. Nothing herein shall be deemed to invalidate any previous notice or citation issued by the city regarding a violation under this article or other parking prohibition.

4. The original notice of violation must be filed with the city finance department and may be disposed of only by official action of the city or by payment of a fine to the finance department.

E. Response to notice of violation required.

1. Any person who is provided notice of a violation of this Chapter or MCA section shall respond to such notice as provided herein within ten (10) business days of the date of the issuance of the notice, by either paying the penalty set forth in the notice or requesting an administrative appeal pursuant to subsection F of this section. If the person provided notice fails to either pay the penalty or request an administrative appeal within ten business days, said failure shall result in the assessment of a \$30.00 administrative fee which shall be in addition to the penalty.

2. If the owner of a vehicle cited for a parking violation has not responded to the notice of violation within ten (10) business days as provided in subsection E.1 of this section, the city shall send a written notice by regular mail to the last known address of the registered owner of the vehicle. Such notice shall state that if the owner of the vehicle does not respond to the notice by either paying the penalty and administrative fee or by requesting in writing an administrative appeal pursuant to these procedures within (10) ten business days of the date of the notice, the owner shall be deemed to have waived the owner's right to an administrative appeal and the determination that a violation was committed shall be considered final. Any person who fails to request an administrative appeal or pay the penalty and administrative fee within the ten (10) business days of the notice described in this subsection shall be deemed to have refused to pay the penalty and administrative fee and the city shall be authorized to proceed to collect the fine and all administrative fees in any manner available to the city.

3. All payments made by a person regarding a notice of a violation under this article shall be paid only to the city finance department.

F. Administrative appeal of parking citation. Any person cited for a violation of this article may contest the determination that a violation occurred by submitting to the city a notice of administrative appeal of parking citation within ten (10) business days of issuance of notice of violation. The notice of appeal must contain a written statement detailing the appellant's argument that the citation was issued in error and may include photographs, or any other information the appellant wishes to rely upon. The citing employee's supervisor ("administrative reviewer") shall review the information submitted and, within 21 days of submittal of the notice of appeal, the city shall inform the appellant via regular mail or other communication approved by the appellant, whether the citation is affirmed, modified, or dismissed. If the citing officer's decision is affirmed or modified, the petitioner shall have ten (10) business days from the date of mailing or other approved communication of the decision to pay the penalty. Failure to pay within said ten (10) business day period shall result in the assessment of a \$30.00 administrative fee which shall be in addition to the penalty, and shall authorize the city to proceed to collect the fine and all administrative fees in any manner available to the city.

G. Rehearing and judicial review.

1. There shall be a review board which shall consist of three hearing examiners, but in no event shall the administrative reviewer whose decision is being reviewed be included in the panel.

2. A request for review of a decision of an appellate reviewer shall be submitted to the review board within ten (10) business days of notice of the administrative reviewer's determination. The review board shall have the power to review the facts and the law in order to affirm, reverse, or modify any original decision for error of fact or law.

3. Procedure. The hearing shall afford a reasonable opportunity for person(s) to demonstrate by the statements of witnesses and other evidence that the citation was invalid or unjustified. The review board shall establish the necessary rules and regulations regarding the conduct of such hearings.

4. Appearance of officer. The officer or other person authorized by the city who issued the notice of violation shall not be required to appear at the hearing unless the review board determines that the officer's presence is required. The review board may grant one postponement if the officer is not available at the time of the hearing.

5. Determination. At the conclusion of the hearing, the review board shall immediately render a decision, either finding the person liable and assessing a fine pursuant to subsection A.1 of this section, or declaring the violation unproven.

6. Failure to appear. Failure of the appellant to appear at a hearing when required to appear shall constitute an admission of the parking violation and shall subject the person charged with the violation to the appropriate fines and costs assessed by the city acting through the review board and shall authorize the city to proceed to collect the fine and all administrative fees in any manner available to the city.

7. Final Decision. The decision of the review board shall be the final decision by the city. Any person aggrieved by a decision may file a petition for judicial review in a court of competent jurisdiction. An appeal must be brought within thirty (30) days from the date of the decision of the review board, and confined to review of the record and questions of law.

H. Immobilization of Vehicle.

1. Actions under this subsection H.1 to immobilize a vehicle are for the purpose of collection and are not considered a penalty. The city may, using any immobilization device (i.e., a "boot"), immobilize any vehicle while parked legally or illegally upon the ways of the city open to the public when:

a. The vehicle is subject to three (3) or more unpaid violations of this article as determined by subsection H.3 of this section regarding that vehicle;

b. An owner of the vehicle has three (3) or more unpaid violations of this article as determined by subsection H.3 of this section and those violations were issued for any vehicle the person currently owns or has owned; or

c. A city court or municipal judge has ordered the vehicle immobilized or impounded.

If immobilization is conducted pursuant to subsection H.1.a or b of this section, a judgment or order of the city court or municipal court is not required.

2. Prior to immobilization, the city shall send via regular mail with delivery confirmation requested a notice to the last known address of the owner of any vehicle having six (6) or more unpaid violations of this article as determined by subsection H.3 of this section that the vehicle may be impounded or immobilized when located upon the ways of the city open to the public. The notice must reference all the unpaid violations of this article against the vehicle or the owner and allow the person ten (10) business days from the date of mailing of the notice to pay all unpaid violations of this article or contest the determination the vehicle is subject to immobilization in the city or municipal court. If the vehicle owner does not respond within ten (10) business days of the date of the mailing, the city may immobilize or impound the vehicle.

3. Only the following violations of this article may be considered in determining the number of violations that subject a vehicle to immobilization:

a. All violations occurring after the effective date of this ordinance:

b. Any violation occurring prior to the effective date of this ordinance, wherein a summons and complaint has been lawfully served on the vehicle owner; and

c. Any violation of this article for which a judgment has been entered by the city court or municipal court as long as the judgment occurred no more than ten years prior to the date the notice of a pending immobilization is sent pursuant to subsection H.2 of this section.

4. A \$150.00 immobilization fee and costs of immobilization and impoundment will be assessed against the owner and must be paid prior to release.

5. At the time a vehicle is immobilized, the city shall conspicuously affix to the vehicle a written notice via a highly visible sticker or other material with an adhesive backing that can be fastened to the driver-side window containing the following information:

This vehicle has been immobilized for three (3) or more unpaid violations of Title 5, Chapter 4 of the Belgrade City Code or by Order of the Belgrade City or Municipal Court. Release from immobilization may be obtained by paying all unpaid violations at City Hall, 91 East Central, Belgrade, Montana, or by appearing in Belgrade City or Municipal Court, 91 East Central, Belgrade, Montana, to answer to the unpaid violations. All assessed fees, including a \$150.00 fee for immobilization, must be paid prior to release of this vehicle. If the vehicle remains

immobilized for more than 24 hours, the vehicle is subject to being towed and impounded as provided in Title 5, Chapter 5 of the Belgrade City Code, with additional fees assessed at that time. Removal or attempted removal of the immobilization device before a release is obtained is unlawful and may be punishable as a criminal offense subject to the penalty provided in Title 1, Chapter 4 of the Belgrade City Code. The owner may contest the action of immobilization and/or impoundment by filing a request for a hearing with the Belgrade City or Municipal Court within ten (10) business days of the immobilization or impoundment. Please call 406-388-4262 for information on how to release this vehicle.

6. If the vehicle has been immobilized, and has remained immobilized for a period of 24 hours or longer, and a release has not been obtained from the city or the city court or municipal court, then the city may impound the vehicle as provided for in subsection I of this section.

7. Nothing herein shall prohibit the city from providing alternative methods of notice that a vehicle is subject to immobilization or that a vehicle has been immobilized.

I. Removal/impoundment of vehicle.

1. The city, or authorized agent of the city, is authorized to remove or tow a vehicle from the ways of the city open to the public pursuant to this Chapter to the city impound lot or to a location associated with the tow company where the vehicle will be stored until the owner of such vehicle appears and claims the same or the vehicle is sold at auction in compliance with MCA 25-13-701 through 25-13-709, under the following circumstances:

a. When any vehicle is left unattended upon any bridge/viaduct or causeway or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

b. When a vehicle is left unattended and that vehicle constitutes an obstruction to the safe and efficient removal of snow, ice, other weather caused obstructions or the vehicle must be removed to facilitate the repairs or replacement of city services;

c. When a vehicle upon a street constitutes an obstruction to traffic and the person in charge of the vehicle fails to or is unable to provide for its custody or removal;

d. Upon issuance of a judicial order for any reason, including offenses under this Chapter or Title 61, Montana Code Annotated (MCA 61-1-101 et seq.);

e. In conjunction with an investigation in which the vehicle is seized pursuant to provisions allowed under MCA 46-5-311, or seized pursuant to a court order; or

f. Whenever any vehicle is found by the city parked or left standing in the ways of the city open to the public streets or alleys of the city and:

(1) The vehicle is subject to three (3) or more unpaid violations of this article as determined by subsection H.3 of this section regarding that vehicle;

(2) An owner of the vehicle has three (3) or more unpaid violations of this article as determined by subsection H.3 of this section and those violations were issued for any vehicle the person currently owns or has owned; or

(3) A city court or municipal judge has ordered the vehicle immobilized or impounded.

2. Prior to towing a vehicle under subsection I.1.f of this section, the city must have immobilized the vehicle and sent notice to the last known registered owner of the vehicle in a similar form to that required in subsection H of this section.

3. Whenever a city employee authorizes the removal of a vehicle from the ways of the city open to the public as authorized in this subsection I and the employee removing the vehicle knows or is able to ascertain from the registration records on the vehicle the name and address of the owner thereof, and in compliance with MCA 61-12-402, such officer or another city employee shall send a notice by certified mail within 72 hours to such owner and lien-holder, if applicable, of the fact of such removal and the reasons thereof and of the place to which such vehicle has been removed. If any such vehicle is stored in a public garage or other storage facility, a copy of such notice shall be given to the attendant or owner of the facility. Further, a city employee authorizing the removal of the vehicle, shall adequately update written or electronic records of the immobilization and/or tow to provide for later identification of all fees relative to the release of the vehicle to the registered owner.

3. Impound fee. The cost of towing or removing such vehicle, administrative fees related to notification of the removal, and costs of storing the vehicle shall be chargeable against the vehicle as the impound fee and shall be paid by the owner of the vehicle before the vehicle shall be released pursuant to subsection J of this section.

4. Storage fee. The vehicle may be stored in a public or a private place; if a private place, the storage charges shall be the amount charged for such private storage; if stored on public property, the storage fee shall be \$100.00 for each month, or any part thereof, up to a maximum of \$500.00. The storage fee shall be as prescribed from time to time by city council resolution. The owner of a vehicle impounded and towed must secure the release of the vehicle as required by subsection J of this section. The city assumes no responsibility for the condition of the vehicle upon towing to impound or a facility provided by a private towing entity.

J. Release of vehicle to owner for immobilization or impoundment.

1. An immobilized or impounded vehicle may be released from immobilization or impoundment only after evidence of ownership or right to possession to the owner or authorized agent of the owner of the vehicle is furnished provided to the city.

2. The owner of an immobilized or impounded vehicle may secure its release:

a. Prior to impoundment. By paying all unpaid violations of this Chapter and all administrative costs, including the costs of immobilization, with the city finance department;

b. Impoundment due to court order. By paying the unpaid violations of this article and all administrative costs, including the costs of immobilization and/or impoundment as stated in subsection H.4 of this section, to the city finance department, or as determined by the city court or municipal court; or

c. After impoundment. By posting a bond with the city finance department in an amount equal to:

(1) All outstanding violations of this article and all administrative costs;

(2) The immobilization fee of \$150.00; and

(3) A sum equal to the impound fee and costs if the vehicle was impounded.

d. After normal business hours. By posting cash bond with the police department that includes all costs listed in subsection J.2.c of this section for emergency exceptions, as necessary.

3. At the time the vehicle is released, the owner or the authorized agent of the owner may challenge the immobilization or impoundment in writing within the city court or municipal court. The owner shall state in writing whether the payments made

are in full satisfaction of all debts and judgments or whether the owner is making payment as a bond and will challenge the immobilization or impoundment with the city court or municipal court. If at the time of vehicle release the owner posts a bond pursuant to subsection E.1.b of this section and yet fails to challenge the immobilization or impoundment pursuant to subsection K of this section, the bond shall be forfeit and considered as final payment for all debts and judgments listed in subsection J.2.c of this section.

K. Hearing for vehicle immobilization or towing/impoundment.

1. Within ten (10) business days of notification of a pending immobilization under subsection H.2 of this section, or within ten (10) business days after an immobilization or impoundment, the owner or operator of a vehicle which is the subject of the notice or the action may file a written petition to challenge the notice or action in city court or municipal court.

2. Upon receipt of a petition, the city or municipal court has jurisdiction and shall set the matter for hearing on an expedited schedule. The court shall give at least 48 hours written notice of the hearing date to the citing city employee or designated representative, the city prosecutor's office, and the petitioner.

3. Upon filing the petition, if the petition is filed based upon the notice, and an immobilization or impoundment action has not yet taken place, then any future immobilization or impoundment will be stayed pending the outcome of the hearing. An appropriate order shall issue from the court.

4. The court shall not require a response to the petition from the city, but shall take testimony and examine the facts of the case, except that the issues are limited to:

a. For immobilization under subsection H of this section:

(1) Whether at the time of an immobilization the vehicle was either the subject of three (3) or more unpaid violations of this article, an owner of the vehicle has three (3) or more unpaid violations of this article as determined by subsection H.3 of this section and those violations were issued for any vehicle the person currently owns or has owned, or the vehicle or owner is the subject of an order of immobilization in the city court or municipal court; and

(2) Whether a representative of the city had sent, prior to immobilization, to the registered owner of the vehicle a written notice complying with subsection H.2 of this section.

b. For impoundment: Whether the vehicle was properly the subject of an act of immobilization or towing as provided in under this Chapter.

5. Based upon the issues in subsection K.4 of this section the court shall determine whether the petitioner is entitled to rescission of the notice or action of immobilization or impoundment. If the petitioner is entitled to rescission, then the court may order the city to pay or reimburse the fees for immobilization or impoundment. If the petition is denied, then the petitioner is subject to the action of immobilization or impoundment and must pay the costs of such action, if taken, together with any costs associated with the hearing should the court find the petition was without merit.

6. If the immobilization or impoundment was deemed justified by court, the court shall forfeit the bond. Any fines or fees remaining in excess of the amount of the bond posted shall be ordered by the court to be paid to the court by the owner of the vehicle.

7. The petitioner's failure to appear at the hearing may result in a judgment against the petitioner pursuant to procedures established by law and an order may be issued by the court requiring all debts, judgments, and administrative costs, including costs related to immobilization or impoundment and costs of the court, and said order shall be complied with prior to release of the vehicle.

L. Sale of impounded vehicles.

1. Vehicles that are not reclaimed within thirty (30) days after notification by certified mail or prescribed publication, in accordance with subsection I.2 of this section, or any vehicles seized and held as evidence where the vehicle no longer has any evidentiary value and for which an order for disposal of the vehicle has been signed by a judge in accordance MCA 46-5-307 and 46-5-308, may be sold at public auction in the manner provided in MCA 25-13-701 et seq.

2. Proceeds from a sale involving vehicles seized pursuant to this article shall be applied first to pay for costs and charges as listed in subsection J.2.c of this section, with any additional balance deposited in the city general fund except when the city is required by law to deposit the balance or any part thereof with another party. In the event of a sale resulting in recovery of costs less than those listed in subsection J.2.c of this section, any unpaid violations or costs may form the basis for additional enforcement under this article.

M. Statute of limitations. Enforcement and collection actions, to include issuing a notice of immobilization under subsection H.2 of this section, may not be issued if the following time periods have been exceeded:

1. Civil citation only: For citations issued after the effective date of this ordinance, for which a summons has not been issued in accordance with subsection G.1 of this

section, one year from the date of issuance of the citation and prior to the date of notice of immobilization under subsection H.2 of this section;

2. Court summons issued for civil citation: For citations issued after the effective date of this ordinance, for which a summons has been issued in accordance with subsection G.1 of this section, but a judgment has not been entered, three years after issuance of the summons and prior to the date of notice of immobilization under subsection H.2 of this section;

3. Court summons issued for criminal citation: For any citation issued prior to the effective date of this ordinance, that was issued as a criminal citation and where a summons and complaint had been filed with the city court, three years from the date of filing with the court and prior to the date of notice of immobilization under subsection H.2 of this section;

4. Judgment entered: For any violation, whether occurring prior to the effective date of this ordinance, or later, if a judgment has been entered by a court, ten years after judgment and prior to the date of notice of immobilization under subsection H.2 of this section.

5-4-17 TAMPERING WITH OR REMOVAL OF IMMOBILIZATION DEVICE
PROHIBITED; PENALTY:

A. A person commits the offense of tampering with or removal of an immobilization device if, before a release of the immobilization device is authorized by the city court or municipal court, the person:

1. Removes or attempts to remove an immobilization device from a vehicle;
2. Relocates the immobilization device from its original installation position;
3. Causes damage of any kind or amount to the immobilization device; or
4. Removes an immobilized vehicle with or without the immobilization device attached from the vehicles location at the time the immobilization device was attached.

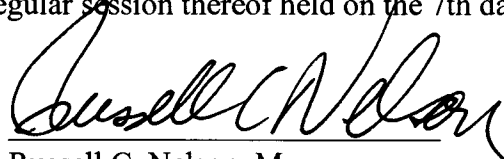
B. A person convicted of this offense is guilty of a misdemeanor and shall be subject to the penalty provide in section 1-4-1 of the Belgrade City Code.

C. As an alternative to incarceration, the person may be ordered to participate in a supervised community corrections program or community service pursuant to MCA 46-18-201.


D. In addition, the person so convicted shall be ordered to pay restitution for the damages caused in an amount to be determined and set by the court. The court shall give full and due consideration to the person's ability to pay the restitution, and may modify the order upon good cause shown by the person. Restitution must be paid in full prior to release from jurisdiction of the city.

5:4:18 EXCLUSIVE AUTHORITY TO REGULATE PARKING: The City of Belgrade has the exclusive authority to regulate parking of vehicles on public streets, alleys, and roadways within the City of Belgrade. Homeowner associations, common-interest communities, businesses, any other entities, and individuals are prohibited from regulating parking of vehicles on public streets, alleys and roadways within the City of Belgrade.

PROVISIONALLY PASSED and ADOPTED by the City Council of the City of Belgrade, Montana, upon first reading at a regular session thereof held on the 7th day of November, 2022.


Russell C. Nelson, Mayor

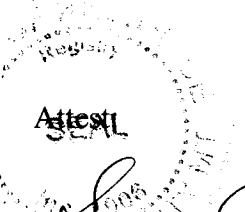

Attest:



Susan Caldwell, City Clerk

PASSED, ADOPTED, AND FINALLY APPROVED by the City Council of the City of Belgrade, Montana upon second reading following a public hearing at a regular session held on the 5th day of December, 2022.


Russell C. Nelson, Mayor

Attest:



Susan Caldwell, City Clerk